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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,539	11/26/2003	Michael E. Natoli	P06681US0	8663

34082 7590 05/11/2005

ZARLEY LAW FIRM P.L.C.  
CAPITAL SQUARE  
400 LOCUST, SUITE 200  
DES MOINES, IA 50309-2350

EXAMINER
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GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/723,539

Applicant(s)

NATOLI

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 4-5, "for receiving an insert" is indefinite, as it is unclear whether the claimed container includes the insert or merely has to be capable of receiving an insert that will act in the manner described if located in the housing. In line 9, the reference to "an end wall" renders the relationship to prior defined "end walls" in line 3 indefinite. Is this one of those walls or another wall?

In claim 9, line 3, "a first and a second half" fails to clearly define two "halves".

In claim 11, the relationship of "at least one aperture" to prior defined apertures in claim 9 is indefinite. In line 2, desiccant is misspelled.

In claim 13, line 1, "The insert" is inconsistent with prior preambles.

In claim 14, line 4, "said inserts" is indefinite, as only positively defined elements of the claim are "said". The phraseology "plurality of housings...for receiving inserts" does not define inserts per se.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Banck (2,265,336). Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5,826,719). Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Pangerc et al. (2004/0256265). Each discloses a container for storing cylindrical items or tools comprising a housing (1; 12; 10; respectively) having a bottom wall (9 or 11; 16; bottom of 66), side walls (as shown; as shown; side parts of 22 and 44), end walls (as shown; as shown; 26 and 28) and an open top (closed by lid 2; closed by lid 11; closed by halves 22 and 44) that form a hollow interior capable of receiving an insert and a retractable door (13 or 20; at 31; 38). An insert (9 or 12 or 18; 20; 18) could it be included and could create a first compartment and a second compartment (on either side of 9 or defined by drawer 12 or the slide frame including trough 19; inside 20 and between 20 and 16; inside 68 and at 64) if so included.

As to claim 2, the insert of each, imaginary or not, could conceivably and inherently receive punches, the actuality again not being claimed.

As to claim 3, the second compartment, imaginary or not, could conceivably and inherently receive dies.

As to claim 4, Banck and Pangerc et al. each disclose a sloped bottom wall (9; bottom of 66) that facilitates unloading of contents to some degree.

As to claim 6, each discloses a pivotal lid (2; 11; 44).

As to claim 8, each discloses the lid with a plurality of recesses (5, 5; as shown; inside 44 and at 54 and at 51).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 6 above, and further in view of Huot Jr. et al. (6,206,189). Huot Jr. et al. disclose providing a housing of translucent material. To modify the housings and lids of any one of Banck, Chen and Pangerc et al. from translucent material would have been obvious in view of Huot Jr. et al. in order to allow viewing of the interior of the housing from the outside.

7. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pangerc et al. in view of Omata et al. (6,247,595). Pangerc et al. disclose a housing insert (60 and 62) including a hollow interior (inside 68) and a top wall having apertures (80) and means (70, 72) for releasably securing the insert within a container. Omata et

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al. disclose forming a housing from detachable halves to form a hollow interior. To provide the housing of Pangerc et al. in the manner of Omata et al. would have been obvious, as housings formed in such a manner are common and the provision fails to distinguish any new and unexpected result.

As to claim 10, the apertures of Pangerc et al. each have a keyed entry for particular contents and sloped portions (at 82).

As to claim 11, each aperture of Pangerc et al. is inherently adapted to receive a desiccant tablet.

As to claim 12, each aperture of Pangerc et al. has support members (82).

As to claim 13, Omata et al. disclose latches (22 and 42) to join the halves together.

8. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banck in view of Mackie (1,955,646) and Blasko et al. (5,228,590). Banck discloses the claimed individual housing except for a retractable door pivotally connected to an end wall of each housing. Mackie discloses a housing with a pivotally connected retractable door (at 8 and 10). To substitute the door of Mackie for either of the doors of Banck would have been obvious in order to facilitate access to the interior of the housing in the manner suggested by Mackie. Blasko et al. disclose detachably connecting dispensing housing to one another. To modify the housing of Banck in the manner disclosed by Blasko et al. to form a container of housings would have been obvious in order to provide plural dispensers in a single unit, as suggested by Blasko et al..

As to claim 15, to provide a handle on the container would have been obvious in order to facilitate carrying of the container, such being given as official notice as being within the level of ordinary skill in the art.

As to claims 16 and 17, Blasko et al. disclose a clasp and slot arrangement (see column 4, lines 30-36).

As to claim 18, Blasko et al. further disclose notches (30) to receive a protrusion ((22f, 28f).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Bal references disclose a container for punches and dies.

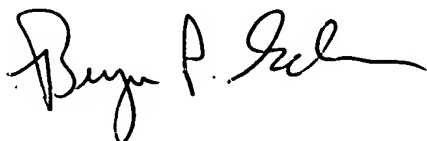
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 271-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 271-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent than the last name "Gehman".

Bryon P. Gehman  
Primary Examiner  
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BPG